

OLC 76-0273/a

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Honorable Bella S. Abzug, Chairwoman
Subcommittee on Government Information and
Individual Rights
Committee on Government Operations
House of Representatives
Washington, D. C. 20515

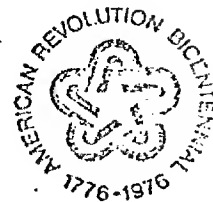
25 FEB 1976

Dear Madame Chairwoman:

This is in reply to your letter of 29 January 1976 submitting a copy of the report of the Committee on Government Operations, House Report 94-795, entitled "The Use of Polygraph and Similar Devices by Federal Agencies" and requesting certain comments concerning the Agency's continued use of the polygraph.

If legislation was enacted to prohibit the use of the polygraph by all government agencies for all purposes as recommended on page 46 of the report, it would seriously impair the Director of Central Intelligence from complying with his statutory responsibility under the National Security Act of 1947. I refer to Section 102(d)(3) of the Act which makes the Director responsible for the protection of intelligence sources and methods from unauthorized disclosure. An effective personnel security program is vital to assure this protection.

The polygraph is an integral and essential part of security processing to determine the security eligibility of persons for Agency employment and for operational purposes. As statistics illustrate, during the period 1963 through mid-1974, of those applicants for employment rejected on security grounds, over 60 percent were rejected on the basis of information developed principally or solely during polygraph interviews. In a sampling of recent records, about half of the applicants who had been disapproved on the basis of information developed during polygraph interviews had already completed all other security screening and been provisionally approved on this basis. Without the polygraph program, the disqualifying information on these cases would have remained unknown. In addition, it is reasonable to presume that the program is a significant deterrent to application for employment by unsuitable candidates, and more importantly, penetration attempts by foreign intelligence services.



The utility of CIA's polygraph program is not solely a function of its part in contributing information leading to the rejection of unsuitable candidates. The preponderance of polygraph interview reports are favorable. Most of these favorable reports constitute useful and comforting confirmation of other screening procedures; the remainder represent favorable resolutions of allegations or suspicions which otherwise could result in injustices or in unnecessary defensive measures.

The Central Intelligence Agency has consistently urged continuance of its polygraph program in its reports to congressional committees on proposed legislation and hearings concerning the polygraph. We note in the Dissenting Views of your report, on page 56, that on 25 March 1975, based on the hearings held in 1974, that the Subcommittee initially approved a recommendation which would have prohibited the use of the polygraph in all but cases involving national security and for law enforcement purposes provided fifth amendment rights under the Constitution were not violated. This concern for national security was recognized by former Senator Sam Ervin, a strong advocate of individual rights, though he otherwise objected to the use of the polygraph. In his proposed legislation to protect the personal privacy of government employees, introduced during several Congresses prior to his retirement from public office, Senator Ervin expressly excepted the CIA and the National Security Agency from the provision barring the use of the polygraph in Government. Senator Ervin's last bill was S. 1688, Senate Report 93-724, which passed the Senate 7 March 1974.

The CIA is cognizant of the danger of abuse inherent in the use of any instrument used to aid in distinguishing truths from untruths. Consequently, we have adopted strict procedures to prevent abuses and to protect those taking the examination. These include:

- notification to each applicant for employment at the time he is given an application form of the intent to use a polygraph examination in the course of his employment processing;

- coordination with the Office of Personnel and the Office of Medical Services to determine if a polygraph interview is advisable;

- advance written consent of the applicant;

- notification of the privilege against self-incrimination on questions pertaining to violations of criminal law;

--reviewing all questions with the applicant before testing;

--limiting questions to those exclusively related to security issues;

--informing the applicant that the examination may be monitored and possibly recorded to let him know there are no hidden procedures;

--random monitoring by a specialized supervisor to insure that no improper questions are asked;

--maintenance of polygraph records in separate files with very strict need-to-know rules governing access;

--prohibition of release of polygraph-acquired information outside the Agency without my approval or that of the Deputy Director and only if such a release is necessary in the interest of national security;

--the polygraph examiner makes no recommendation as to the security suitability of the person tested; and,

--evaluation of the polygraph report is but one element in the total personnel security screening program.

With respect to reliability, defined in accordance with scientific convention as the consistency of the interpretations of the polygraph charts, agreement studies were conducted as part of an Agency research program which was initiated partially in response to the hearings held by the Foreign Operations and Government Information Subcommittee in the early 1960's. Numerical results of these studies are complex and would require extensive explanation, but comparisons may be useful. Comparable studies of similar professional groups are scarce but two were found, involving cardiologists evaluating EKG charts for cardiac pathology and psychologists evaluating MMPI test results for psychopathology. The CIA polygraphers' chart interpretations were as good as or better than these two groups.

Finally, the selection of polygraph officers is extremely discriminating as to their qualifications, intelligence, integrity, and high character. They are given a rigorous training program which is a continuing process to keep them abreast of developments in their professional field. CIA has maintained a vigorous research effort inquiring into new techniques and equipment to insure that the highest standards are maintained.

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In view of my statutory responsibility to protect intelligence sources and methods and the proven reliability of the polygraph and the safeguards in its utilization, I must disagree with the recommendation of the Committee. This Agency's personnel security standards must be maintained at the highest levels. Termination of the Agency's polygraph program would increase its vulnerability to hostile penetration and would seriously impact on the Agency's effectiveness in carrying out its foreign intelligence collection mission.

Sincerely,

/s/ George Bush

George Bush
Director

cc:

Chairman, House Government Operations Committee

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OLC/PLC/dlw/6604/9010 (20 Feb. 1976)

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